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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,881	09/19/2003	Alfred P. Marchetti	83788CPK	8884

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EXAMINER

SCHILLING, RICHARD L

ART UNIT PAPER NUMBER

1752

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/666,881

Applicant(s)

MARCHETTI ET AL.

Examiner

Richard L Schilling

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1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-20 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9-19-03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Eikenberry et al. Eikenberry et al. (see particularly column 10, line 46 - column 11, line 7; the Examples, Table 2) disclose photographic elements with silver halide emulsions containing sulfur and gold sensitizers at levels of gold at preferably approximately  $1 \times 10^{-6}$  moles gold per mole

silver to  $.5 \times 10^{-4}$  moles gold per mole silver and preferably  $.3 \times 10^{-6}$ - $1.5 \times 10^{-3}$  moles sulfur per mole silver. Van Zegel et al. (see particularly column 2, lines 22-31; column 3, lines 3-30) discloses tabular silver halide grains with sulfur and gold sensitizers wherein it is shown that 6000 atoms of gold or sulfur per micron squared of silver grain surface corresponds to approximately  $1 \times 10^{-5}$  moles chemical sensitizer per mole silver.

Therefore, the preferred ranges of sulfur and gold sensitizers in Eikenberry et al. include amounts far less than 40,000 atoms of sulfur and 6000 atoms of gold per square micron of grain surface area. It would at least be obvious to one skilled in the art to use amounts of gold and sulfur sensitizers in Eikenberry toward the lower end of their most preferred ranges. Table 2 of the Examples sets forth Examples B-1 and B-2 using tabular silver halide grains with grain sizes less than about 1 square micron with sulfur sensitizers at roughly 12,000 atoms per square micron of silver surface and gold sensitizers at roughly 3.6 thousand atoms per square micron of silver grain surface. The term "photothermographic" as used in the instant claims does not materially distinguish the elements of the instant claims over those of Eikenberry et al. since the elements in Eikenberry et al. may inherently be used in development processes employing heat for development acceleration or processed with processing

sheets containing heat activated processing ingredients such as developing agents or thermal solvents.

2. Claims 8 and 9 are objected to as depending on a rejected claim but would be allowable if written in proper independent form. Iekenberry et al. does not disclose the use of organic silver donors.

3. The prior art submitted by applicants has been considered. Jantou et al. is cited of interest in the art as disclosing silver halide grains sensitized with gold and silver.

Droin et al. is cited of interest in the art as disclosing silver halide grains sensitized with 15-50,000 atoms of gold and 30-50,000 atoms of sulfur per square micron of silver halide grain surface. Simpson et al. is cited of interest in the art as disclosing photothermographic elements with silver halide grains sensitized with sulfur and gold. While the lower limits of the amounts of sulfur and gold may be within the range set forth in the instant claims, Simpson does not clearly disclose silver halide grains with the combination of sulfur and gold being used in the low amounts required by the instant claims. The preferred ranges for sulfur and gold in Simpson et al. encompass using far more sensitizer than the upper limits set forth in the instant claims.

4. Any inquiry concerning this communication should be

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directed to Mr. Schilling at telephone number (571) 272-1335.

RLSchilling:cdc

February 23, 2005

RICHARD L. SCHILLING  
PRIMARY SIGNER  
GROUP 183

*[Handwritten signature]* 1752